

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

11 ANTHONY GERARD LEWIS, }
12 Plaintiff, }
13 v. }
14 J. BEARD, et al., }
15 Defendants. }
16

No. C 15-03335 BLF (PR)

**ORDER DISMISSING DEFENDANT
J. PEHRSON**

18 Plaintiff, a state prisoner currently incarcerated at Salinas Valley State Prison
19 (“SVSP”) in Soledad, filed this *pro se* civil rights action pursuant to 42 U.S.C. § 1983
20 against SVSP officials. On April 5, 2016, the Court issued an order of service upon
21 SVSP Defendants. (Docket No. 16.) On April 13, 2016, Litigation Coordinator G. Lopez
22 filed a letter with the Court indicating that Defendant J. Pehrson no longer works for
23 SVSP and had retired in December 2014. (Docket No. 21.) On April 19, 2016, the Court
24 directed Plaintiff to file a notice providing the Court with an accurate and current address
25 for Defendant J. Pehrson such that the Marshal is able to effect service. (Docket No. 22.)
26 Plaintiff was notified that if he failed to file the requested information within thirty days,
27 his claims against this Defendant would be dismissed without prejudice pursuant to Rule
28 4(m) of the Federal Rules of Civil Procedure. (*Id.*) On May 16, 2016, Plaintiff filed a

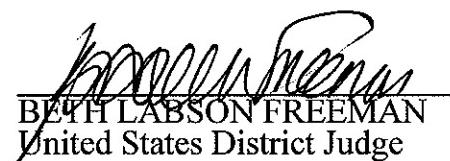
1 pleading titled "Correction of plaintiff current assign housing and sufficient reply to this
2 Courts Order hereto [sic]." (Docket No. 26.) Plaintiff states that he has unsuccessfully
3 inquired as to Defendant J. Pehrson's whereabouts and requests that "the marshal rely on
4 J. Pehrson [sic] prior residence for appropriate service." (*Id.* at 1-2.) However, Plaintiff
5 never provided the Court with Pehrson's prior residence.

6 Although a plaintiff who is incarcerated and proceeding *in forma pauperis* may
7 rely on service by the Marshal, such plaintiff "may not remain silent and do nothing to
8 effectuate such service"; rather, "[a]t a minimum, a plaintiff should request service upon
9 the appropriate defendant and attempt to remedy any apparent defects of which [he] has
10 knowledge." *Rochon v. Dawson*, 828 F.2d 1107, 1110 (5th Cir. 1987). After service
11 upon Defendant J. Pehrson was attempted, SVSP Litigation Coordinator notified the
12 Court that Defendant J. Pehrson had retired in December 2014, seven months before
13 Plaintiff filed his complaint. To date, Plaintiff has failed to provide the necessary
14 information to serve the Defendant J. Pehrson. Plaintiff's complaint has been pending for
15 over 90 days, and thus, absent a showing of "good cause," his claims against Defendant J.
16 Pehrson are subject to dismissal. See Fed. R. Civ. P. 4(m). Accordingly, Plaintiff's
17 claims against Defendant J. Pehrson are **DISMISSED**. The Court's dismissal is without
18 prejudice, affording Plaintiff the opportunity to add J. Pehrson as a defendant if a valid
19 address becomes known.

20 The Clerk shall terminate Defendant J. Pehrson and remove him from the Docket.

21 **IT IS SO ORDERED.**

22 DATED: May 25, 2016



BETH LABSON FREEMAN
United States District Judge